

House Bill 255 (AS PASSED HOUSE AND SENATE)

By: Representatives Bridges of the 10th and Forster of the 3rd

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 1 of Title 47 of the Official Code of Georgia Annotated, relating to restrictions and prohibitions on membership in public retirement or pensions systems, so as to define certain terms; to expand the definition of the term "public employment related crime"; to provide for notification of a conviction; to provide that a member of any such retirement or pension system who is convicted of a public related crime shall forfeit retirement or pension benefits in an amount equal to three times the economic impact of the crime; to provide for an administrative hearing to determine the economic impact of any such crime; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 1 of Title 47 of the Official Code of Georgia Annotated, relating to restrictions and prohibitions on membership in public retirement or pensions systems, is amended by adding a new paragraph to Code Section 47-1-20, relating to definitions, to read as follows:

"(1.2) 'Economic impact of a public related crime' means the total of the economic gain to the perpetrator of an employment related crime and the economic loss to the public entity."

SECTION 2.

Said article is further amended by revising paragraph (6) of Code Section 47-1-20, relating to definitions, as follows:

"(6) 'Public employment related crime' means any one or more of the following crimes:
(A) Theft as provided in any one or more of Code Sections 16-8-2 through 16-8-9 when the theft is by an officer or employee of a government in breach of duties as such

officer or employee and conviction for such crime is punishable under paragraph (3) of subsection (a) of Code Section 16-8-12;

(B) Any felony provided for in Article 1 of Chapter 10 of Title 16, relating to abuse of governmental office;

(C) Making false statements or concealing facts in matters within the jurisdiction of the state or a political subdivision as provided in Code Section 16-10-20;

(D) Conspiracy to defraud the state or a political subdivision as provided in Code Section 16-10-21;

(E) Stealing, altering, or concealing public records as provided in Code Section 45-11-1; and

(F) Selling offices or dividing fees as provided in Code Section 45-11-2; and

(G) Any felony conviction for any of the crimes specified in subparagraphs (A) through (E) of this paragraph under the laws of any other state or the United States; provided, however, that the provisions of this subparagraph shall apply to persons who first or again become members of a public retirement system on or after July 1, 2008."

SECTION 3.

Said article is further amended by revising subsection (b) of Code Section 47-1-22, relating to forfeiture of rights and benefits by public employees after July 1, 1985, for committing public employment related crimes and reimbursement of contributions, as follows:

"(b) If a public employee commits a public employment related crime in the capacity of a public employee and is convicted for the commission of such crime, upon final conviction such employee shall forfeit all rights and benefits under and membership in any public retirement system in which the employee is a member, effective on the date of final conviction. Any such public employee shall not at any time after such final conviction be eligible for membership in any public retirement system. Any employee contributions made by any such public employee to any public retirement system during membership in the public retirement system shall be reimbursed, without interest, to the public employee within 60 days after the date of final conviction for the commission of a public employment related crime person's benefits under a public retirement or pension system, including any survivor's benefits if applicable, shall be reduced by an amount equal to three times the economic impact of the crime, as determined pursuant to the provisions of Code Section 47-1-25. Payment of such benefits shall cease until such amount has been forfeited, after which benefits shall be restored. If the person has not begun to receive a benefit, the deduction shall commence at the time such benefits would normally begin. For purposes of this subsection, the term 'benefit' shall not include a refund of employee contributions without interest."

SECTION 4.

Said article is further amended by adding a new Code section to read as follows:

"47-1-22.2.

Upon the final conviction of any person for a public employment related crime, the prosecuting attorney shall so notify the defendant's former public employer and any public retirement system in which he or she knows the convicted public employee to be an active, inactive, or retired member. Upon such notification, the public employer shall also notify any such public retirement system."

SECTION 5.

Said article is further amended by adding a new Code section to read as follows:

"47-1-25.

Within 30 days following the day the board of trustees receives notice that a member of the retirement system has been convicted of an employment related crime, the board shall initiate proceedings in the Office of State Administrative Hearings, under the provisions of Article 2 of Chapter 13 of Title 50, to determine the economic impact of the employment related crime. Such matter shall be deemed to be a contested case within the meaning of such article. The Department of Law shall represent the board of trustees in such proceedings. The decision of the administrative law judge shall be final unless appeal is made as otherwise provided by law."

SECTION 6.

All laws and parts of laws in conflict with this Act are repealed.